

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WHITNEY DESIGN, INC.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:08CV1140 CDP
)	
B & R PLASTICS, INC.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before me on B & R Plastics' motion to stay this case pending resolution of motions in a related case filed in the United States District Court for the District of Colorado. Whitney Design agrees that this matter should be stayed.


In this action, Whitney Design seeks a declaration of non-infringement and the invalidity of B & R Plastics' patent. In the Colorado action, filed three months before this action, B & R Plastics seeks damages from Whitney Design for infringement of the same patent at issue in this case. Currently pending before the Colorado court are Whitney Design's motions to dismiss for lack of personal jurisdiction and for failure to name a necessary party. In the alternative, Whitney Design seeks transfer of the Colorado action to this Court. The Colorado court has already held a Rule 16 scheduling conference and issued a Trial Preparation Order. This case has not yet been set for a Rule 16 conference.

After careful consideration, the Court agrees with the parties that this matter should be stayed until the Colorado court resolves the jurisdictional issues pending before it. Whitney Design must notify this Court within five (5) days of the Colorado court's decision on its pending motions to dismiss, and this action will be stayed until twenty (20) days after the United States District Court for the District of Colorado resolves the motions to dismiss currently pending in B & R Plastics, Inc. v. Whitney Design, Inc., Cause Number 08CV914 MSK-MJW.

Accordingly,

IT IS HEREBY ORDERED that defendants' motion to stay [#10] is granted, and **this action is stayed until twenty (20) days after the United States District Court for the District of Colorado resolves the motions to dismiss currently pending in B & R Plastics, Inc. v. Whitney Design, Inc., Cause Number 08CV914 MSK-MJW.**

IT IS FURTHER ORDERED that plaintiff shall notify the Court within five (5) days of the Colorado Court's decision on its pending motions to dismiss.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 12th day of November, 2008.